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REMARKS

Claim Rejections Under 35 USC § 101

The Examiner rejected each of claims 1-10 as non-statutory, reciting a brief passage from the "safe harbors" section of MPEP § 2106 IV.B.2.(b). The Examiner has not provided and does not seem to have considered the full context of analyzing statutory subject matter, as described in the computer invention examination guidelines. None of the many examples of what is certainly statutory subject matter have been recited by the Examiner and no effort has been made to apply the examples.

Near the end of the rejection, the Examiner asserts, mistakenly, that the use of a computer has not been indicated. This is mistaken because one of skill in the art will recognize that the claimed process is no more amenable to being carried out by hand than a simplex algorithm, a complex optimization procedure with which the Examiner is undoubtedly familiar. Words from the computer lexicon are found throughout the claims, including "database", "adding or deleting", "updating", "calculating" and "computing". Paragraph [0042] frames the claimed processes as a device when a program is loaded into machine readable memory or when combined with the computer system on which the program runs. When the claims are taken as a whole in light of the specification, a reader of skill in the art will understand that use of a computer is indicated.

To avoid unnecessary back and forth, each of the claims have been amended to indicate a computer-implemented method. Applicants' position is that this does not narrow the claims, because it only makes explicit what one of ordinary skill in the art would appreciate by reading the claims. This approach is consistent with the method claims in the Castelli reference on which the Examiner relies.

Applicants respectfully submit that the § 101 rejections should be withdrawn.

Rejection Under 35 U.S.C. § 102(e) of Claims 1-10

The Examiner rejects **claims 1-10** under 35 U.S.C. § 102(e) as anticipated by Castelli et al., U.S. Pat. No. 6,122,628.

Claims 1-10 are methods operating on in "a k nearest neighbor database, said database including original documents, categories, category assignments for the

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original documents, and category scores for the original documents". This is not the kind of database used by Castelli; there is no list to retain of at least k nearest neighbors and corresponding similarity scores. The Examiner offers no point citation suggesting to the contrary. Therefore, claims 1-10 should be allowable over Castelli.

Castelli avoids building a k nearest neighbor database with lists of nearest neighbors, preferring instead to apply cluster analysis. Castelli describes how the clustering can be used to answer k nearest neighbor queries by creating *ad hoc* nearest neighbor sets, but that is a way of *avoiding* building a k nearest neighbor database with lists of nearest neighbors. In Castelli's teaching, k is a query parameter for *ad hoc* queries, not a list length for nearest neighbor lists. One of skill in the art will recognize that clustering is diametrically opposed to category assignment, which can be carried out or double checked by an editor, as clustering is purely mathematical and ultimately abstract; it requires much insight (and sometimes guile) to assign concrete meaning to a cluster dimension.

Of course, having chose an alternative to using a k nearest neighbor database, Castelli has nothing to teach about incrementally "updating precision and recall curves", "adding category assignments", or incrementally performing any other maintenance of a k nearest neighbors database, including lists of nearest neighbors.

Applicants respectfully submit that claims 1-10 should be allowable over Castelli.

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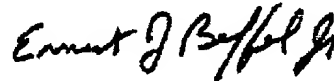**Application No.:** 09/893,301   **Atty Docket: INXT 1017-1**

CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims, in light of these amendments.

The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 to 5:30 PST, M-F and can be reached at his cell phone (415) 902-6112 most other times.

Respectfully submitted,

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Dated: 23 February 2005

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